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OFFICE OF PETITIONS

Applicant: Xavier, et al.

Appl. No.: 10/538,782

International Filing Date: December 12, 2003

Title: NON-TRANSFER COSMETIC COMPOSITION COMPRISING A DISPERSION OF A GRAFTED ETHYLENE POLYMER

Attorney Docket No.: 05725.1478

Pub. No.: US 2006/0134034 A1

Pub. Date: June 22, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on August 22, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the material errors as follows:

On page 7, paragraph [0147], "R₁₁" should read "R'₁".

On page 7, paragraph [0148], "R₁₂" should read "R'₂".

On page 18, claim 53, "R₁₁" should read "R'₁".

On page 18, claim 53, "R₁₂" should read "R'₂".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The errors noted by requestor wherein read "R'₁" is misprinted as "R₁₁" and "R'₂" is misprinted as "R₁₂" are Office errors but the mistakes are not material errors under 37 CFR 1.221(b). The errors are typographical errors, which are clearly understandable to one of ordinary skill in the

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

art in reading the specification or claim, formula is directly above the typographical errors. The mistake is a minor typographical, which does not affect the understanding of the specification and dependent claim. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
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By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



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